

## **TITLE 14. Fish and Game Commission**

### **Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071, 8282, 8500, and 8587.1, of the Fish and Game Code and to implement, interpret or make specific sections 7071, 7850, 8254, 8282, 8500, 8585.5, 8587, 8587.1, 9001, 9001.5, 9001.6, 9001.7, 9003, 9004, 9005, and 9006, of said Code, proposes to add Section 150.18, Title 14, California Code of Regulations, relating to Nearshore Fishery Trap Gear Limitations.

#### **Informative Digest/Policy Statement Overview**

Current regulations governing the nearshore fishery include regional management, trip limits for state-managed species, size limits, a commercial restricted access program, and a limitation on the number of hooks. Current finfish trap requirements are contained in Statute and the specific requirements for trapping south of Point Arguello will sunset April 1, 2005. A moratorium permit has also been established for fishermen taking the deeper nearshore species. The Legislature delegated authority for the nearshore fishery, including regulation of the amount and type of gear, to the Commission upon adoption of a management plan for this fishery. The Commission adopted a Nearshore Fishery Management Plan in October 2002 and established regulations limiting hook and line gear in the nearshore fishery. The proposed action would appropriately establish, in regulation, the finfish trap limitations currently in Statute, with two minor changes.

Existing Statute Requirements to be Established in Regulation:

#### **Possession of lobster with nearshore fish stocks**

Allows possession of both lobster and nearshore fish stocks providing:

- At least one individual must possess a valid Nearshore Fishery Permit (NFP) and trap endorsement or Deeper Nearshore Species Fishery Permit (DNSFP).
- All individuals on board must possess a valid lobster permit.

#### **Bait**

- Lobster and crabs, other than rock crab, cannot be used as bait.
- Rock crab can be used as bait subject to Section 125, Title 14, California Code of Regulations (CCR). (Note: Section 125, Title 14, CCR, has been adopted by the Commission but is yet not effective).
- Nearshore fish traps are required to be unbaited with the door open between sunset and sunrise.

#### **Trap construction**

- Timed buoy release mechanisms or "pop-up" devices cannot be used.
- Each trap must have at least one destruction device.
- Trap destruction devices shall conform to Section 180.2, Title 14, CCR.
- The use of metal rings shall conform to Section 180.4, Title 14, CCR.

#### **Number of traps and areas fished**

- Maximum of 50 traps can be used within one mile of the mainland coast.
- Traps cannot be used within 750 feet of any pier, breakwall, or jetty.
- Each trap must be serviced regularly.

Minor changes:

- Finfish trap buoys used under a NFP and trap endorsement or DNSFP must be identified on the buoy with the commercial fishing license number followed by the letter "Z". Buoys on nearshore finfish traps used anywhere in the state will now have the same marking requirements.
- Finfish traps used under a NFP and trap endorsement or DNSFP must be constructed with a minimum mesh size of 2 inches by 2 inches. There will no longer be a requirement that finfish traps be constructed of mesh measuring exactly 2 inches by 2 inches.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the James W. Kellogg Memorial Building, 935 Detroit Avenue, Concord, California, on Friday, October 22, 2004 at 8:30 a.m. or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in The Beach Resort, Bay View Room, 2600 Sand Dunes Drive, Monterey, California, on Friday, December 3, 2004 at 8:30 a.m. or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 24, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than December 3, 2004 at the hearing in Monterey. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Marija Vojkovich, Offshore Ecosystem Coordinator, Department of Fish and Game, Marine Region, (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm](http://www.dfg.ca.gov/fg_comm)

#### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

#### **Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to

the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations reflect Statutes already in effect for this fishery, thus there will be no change in current business practices.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business.

### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Robert R. Treanor  
Executive Director

Date: August 31, 2004